

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Wireless Telecommunications Bureau |) | WT Docket No. 16-181 |
| Seeks Comment Regarding AT&T Request |) | |
| for Relief of Certain WCS Construction |) | |
| Requirements |) | |

REPLY COMMENTS OF SIRIUS XM RADIO INC.

Sirius XM Radio Inc. (“Sirius XM”) hereby replies to the comments submitted by Public Knowledge on June 22, 2016 in the above-referenced proceeding in which AT&T Mobility Spectrum LLC, BellSouth Mobile Data, Inc., New Cingular Wireless PCS, LLC, and SBC Telecom, Inc. (collectively, “AT&T”) seek waiver of certain construction deadlines applicable to AT&T licenses in the 2.3 GHz Wireless Communications Service (“WCS”) C and D Blocks.

Through supplemental comments filed on June 30, 2016 (the “Supplemental Comments”), Sirius XM has expressed its support for the requested waiver, which would facilitate the productive use of 2.3 GHz WCS spectrum in a manner consistent with the existing framework governing WCS and SDARS coexistence. Public Knowledge echoes these sentiments, explaining the requested waiver would “enhance the likelihood that spectrum will be put to productive use as soon as possible” and allow consumers to “reap benefits from a successful deployment of AT&T’s smart grid solution”¹ Public Knowledge also acknowledges the importance of preserving AT&T’s status in light of “the unique interference issues that have plagued the WCS band”²

¹ Public Knowledge Comments at 3.

² *Id.* at 2.

Despite agreeing with Public Knowledge and other commenters on the public interest benefits of granting this waiver, Sirius XM has significant concerns about Public Knowledge's suggestion that, as a "condition" to the requested waiver, the Commission should authorize unlicensed wireless operations in the WCS C and D Blocks. Public Knowledge provides no explanation of how or why this unrelated "condition" is necessary to ensure the requested waiver—which Public Knowledge supports—would serve the public interest. Similarly, Public Knowledge ignores the impropriety of using an adjudicatory proceeding for purposes of attempting to authorize a new class of third-party spectrum users, when this proceeding should be focused solely on whether using *AT&T's* existing licenses for the proposed smart grid deployment would serve the public interest.³

Public Knowledge itself recognizes that the WCS C and D Blocks suffer from "unique interference issues" that constrain the practical applications of this spectrum.⁴ For this reason, the Commission has imposed strict technical limits on the use of the band—including a complete ban on all mobile and portable operations⁵—reflecting a careful balancing of interests that was reached only after years of debate and disagreement. This careful balancing and those technical limits now facilitate the coexistence of WCS and SDARS band in an environment where such coexistence once seemed impossible to achieve.⁶ Public Knowledge does not explain how

³ Cf. *Consolidated Request of the WCS Coalition for Limited Waiver of Construction Deadline*, 21 FCC Rcd 14135, at ¶ 16 (2006) ("Neither issue is relevant to the requests for waiver of the WCS construction requirement.").

⁴ Public Knowledge Comments at 2.

⁵ *Amendment of Part 27 of the Commission's Rules to Govern the Operation of Wireless Communications Services in the 2.3 GHz Band*, Order on Reconsideration, 27 FCC Rcd 13651, at ¶ 88 (2012).

⁶ See *Amendment of the Commission's Rules to Establish Part 27*, 12 FCC Rcd 10785, at ¶¶ 3, 45 (1997).

unlicensed operations in the WCS C and D Blocks would or could be conducted in a manner consistent with this framework, nor does it seem to appreciate the many practical and technical obstacles that would hinder unlicensed operations in these bands or the impact that unlicensed operations could have on SDARS and other spectrum holders. The only certainty of Public Knowledge's proposal is it would lead to many more years of uncertainty, further delaying productive use of the WCS bands.

Sirius XM is very concerned that unlicensed operations in the WCS C and D Blocks could be harmful to licensed SDARS and licensed WCS spectrum users. The prospect of unlicensed operations would further complicate the already challenging sharing issues that sharply limit the applications of the WCS C and D Blocks today, and that resulted in the painstaking search for a compatible use for this spectrum, leading to AT&T's smart grid proposal. As Public Knowledge recognizes, AT&T "dedicated substantial time and resources" to understand those issues and identify a limited range of services that could be offered while still protecting licensed SDARS.⁷ Those services can coexist with SDARS primarily because the entity licensed to operate in almost the entire WCS band—AT&T—is known to Sirius XM, is experienced in operating communications networks in complicated spectrum environments, and appreciates the importance of entering into coordination agreements addressing key aspects of their operations and interference avoidance.⁸ In fact, reaching coordination agreements between WCS and SDARS was a practical impossibility until control of the WCS band was consolidated in a single licensee.

⁷ Public Knowledge Comments at 2.

⁸ See Supplemental Comments at 1-2 (discussing the importance of coordination agreements, especially where adjacent bands are allocated in a manner making one service highly susceptible to receiving interference).

It is difficult to see how this type of technical and operational rigor could exist in an unlicensed context. Unlicensed users would not be well-positioned to share technical information or otherwise engage in the coordination activities that the Commission has recognized are essential. Today, WCS licensees are required to notify SDARS operators before deploying facilities in the C and D Blocks and are encouraged to negotiate coordination arrangements with SDARS licensees⁹—obligations that AT&T has satisfied through a series of agreements with Sirius XM, including one executed just last week to address AT&T’s proposed smart grid services.¹⁰ Those agreements, among other things: (i) set forth common baseline assumptions concerning the nature of WCS operations in each market to facilitate testing and technical analysis; (ii) require site-by-site testing of AT&T’s WCS sites before they become operational to ensure they will not cause interference into SDARS; and (iii) establish clear, enforceable mechanisms for interference resolution where detected. By identifying where new spectrum applications are planned to occur, and under what conditions those new applications will occur, this framework allows Sirius XM to carefully monitor the spectrum environment and ensure the continued quality of its service.

Not only would it be impractical to identify a potentially unlimited number of unlicensed users for coordination purposes, but it also is likely that those users would be unable to enter into or operate within the framework created by a coordination agreement. Without an enforceable coordination agreement, there would be no practical way to ensure that unlicensed devices operate in a manner consistent with the stringent technical limits applicable to the WCS C and D Blocks, and there would be no way to know when and where any unlicensed applications are

⁹ 47 C.F.R. § 27.72.

¹⁰ See Supplemental Comments, Exhibit A.

occurring. And because the unlicensed operating environment would be characterized by a large number of unaffiliated and lightly regulated spectrum users, neither licensees nor the Commission would have a practical way of identifying the precise source of harmful interference when it occurs.

The presence of unlicensed operations in the C and D Blocks would also undermine the baseline assumptions in the existing coordination agreements between SDARS and WCS licensees, since the interference environment would change dramatically based on the nature and extent of unlicensed operations at any given time in any given area. Furthermore, the known entities that are authorized to operate in the WCS band are carefully controlled—by both AT&T and the Commission. By contrast, the unlicensed operations proposed by Public Knowledge would be largely *uncontrolled*, and consequently would present many additional technical issues and interference concerns.

Sirius XM provides an important public service through its audio programming, as a key part of the national media and the exchange of diverse content and viewpoints. In addition, Sirius XM plays a critical role in distributing emergency information to satellite radio listeners, providing EAS tests and alerts, extreme weather alerts, traffic updates, and other information needed in emergencies. When reception of Sirius XM service is impaired, listeners cannot receive this programming or potentially life-saving alerts and related information.

Before the Commission even considers any potential unlicensed use of the WCS C or D Blocks that could interfere with Sirius XM or other licensed services, many fundamental questions would need to be addressed, including how unlicensed operators would ensure compliance by their end users with the prohibition against mobile and portable operations, how coordination with adjacent band SDARS would be effectuated, how SDARS licensees would be

notified of planned unlicensed operations, how unlicensed sources of interference would be identified, and how any suspected interference would be resolved.

* * * * *

For these reasons, the prospect of introducing unlicensed operations to the WCS C and D Blocks would upset the delicate balance the Commission crafted encouraging productive use of the 2.3 GHz Band and further delay the deployment of licensed service in the WCS bands. The very nature of unlicensed service would magnify and complicate the already significant challenges that can arise between spectrum licensees in the 2.3 GHz Band, and create many new and complex issues as well. Sirius XM therefore urges the Commission to grant AT&T the relief it seeks, without the condition related to unlicensed wireless use proposed by Public Knowledge.

Respectfully submitted,

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July 5, 2016

CERTIFICATE OF SERVICE

I, Jarrett S. Taubman, hereby certify that on this 5th day of July, 2016, I caused a true and correct copy of the foregoing “Reply Comments of Sirius XM Radio Inc.” to be served upon the following by first-class mail, postage pre-paid:

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